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AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

## UNITED STATES DISTRICT COURT

2024 FEB 20 PM4:16

for the

Western District of Pennsylvania

	Petitioner		- {		•
9	v.		)		
		· .	) Case No	Personal Control of the Control of t	-
_			)	(Supplied by	Clerk of Court)
S. Bar	lett, Warden - FCI	McKean	ý	*	
name of war	Respondent den or authorized person having	g custody of petitioner)	- )		
	PETITION FOR	A WRITOTHA	DEAGGORAGE		
				UNDER 28 U.S.C	. § 2241
	. 98		al Information		
	The state of the s	arcos Antonio	Rivera-Rive		
	Other names you have use	ed:	A STATE OF THE PARTY OF		
	ce of confinement:	The state of the s			
		FCI McKean		•	
(b)		Box 8000			
		dford, Pennsy	lvania 16701		
	our identification number		50582-069		
Are	you currently being held or	n orders by:	0000		
XXI Fe	deral authorities	State authorities	Other - ex	plain:	
 Δ re n	ou currently:		ř.		
	,				
VVC av	pretrial detainee (waiting fo	or trial on criminal	charges)		
AX3CI	ving a sentence (incarcerat	ion, parole, probati	on, etc.) after hav	ving been convicted	of a crime
11 y	J sailing a	schience, provide:			
	(a) Name and location of Puerto Rico		ced you: U.S.	District Cou	rt - District of
	(b) Docket number of cr	riminal case:	3:17-CR-0448	1-01	
	(c) Date of sentencing:	09/27/2019		· •	
[] Beir	g held on an immigration	charge			
Othe	r (explain):	-			*

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

What are you challenging in this petition:    How your sentence is being carried out, calculated, or credited by prison or parole authorities (for examp revocation or calculation of good time credits)   Pretrial detention	Decision or Action You Are Challenging	
Diffew your sentence is being carried out, calculated, or credited by prison or parole authorities (for examp revocation or calculation of good time credits)    Pretrial detention	What are you challenging in this patition.	
Differitial detention    Detainer	How your sentence is being carried and and and and and and and and and an	
□ Immigration detention □ Immigration detention □ Detainer  ⑤ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines) □ Disciplinary proceedings □ Other (explain):  Provide more information about the decision or action you are challenging:  (a) Name and location of the agency or court: U.S. District Court - Puerto Rico  (b) Docket number, case number, or opinion number: 3:17-CR-0448-01  (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):  Conviction for \$924(c), an illegal conviction  (d) Date of the decision or action: Sentenced on 09/27/2019  Your Earlier Challenges of the Decision or Action  First appeal  Did you appeal the decision, file a grievance, or seek an administrative remedy?  X¾ Yes □No  (a) If "Yes," provide:  (1) Name of the authority, agency, or court: U.S. District Court of Appeals  (2) Date of filing: 09/30/2019  (3) Docket number, case number, or opinion number: 19-2052  (4) Result: Direct Appeal denied  (5) Date of result: Approximately, or the proper of the province	revocation or calculation of good times and a revocation or calculation of good times at the second state of the second state	authorities (for example
□ Immigration detention □ Detainer  ☑ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines) □ Disciplinary proceedings □ Other (explain):  Provide more information about the decision or action you are challenging:  (a) Name and location of the agency or court: U.S. District Court - Puerto Rico  (b) Docket number, case number, or opinion number: 3:17-CR-0448-01  (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):  Conviction for \$924(c), an illegal conviction  (d) Date of the decision or action: Sentenced on 09/27/2019  Your Earlier Challenges of the Decision or Action  First appeal  Did you appeal the decision, file a grievance, or seek an administrative remedy?  XXYes □No  (a) If "Yes," provide:  (1) Name of the authority, agency, or court: U.S. District Court of Appeals  (2) Date of filing: 09/30/2019  (3) Docket number, case number, or opinion number: 19-2052  (4) Result: Direct Appeal denied  (5) Date of result: Approximately over the sentencing guidelines)  Provide remaining guidelines	Pretrial detention	, chample
Detainer  The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)  Disciplinary proceedings  Other (explain):  Provide more information about the decision or action you are challenging:  (a) Name and location of the agency or court: U.S. District Court - Puerto Rico  (b) Docket number, case number, or opinion number: 3:17-CR-0448-01  (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):  Conviction for \$924(c), an illegal conviction  (d) Date of the decision or action: Sentenced on 09/27/2019  Your Earlier Challenges of the Decision or Action  First appeal  Did you appeal the decision, file a grievance, or seek an administrative remedy?  XM Yes		93
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(3) Docket number, case number, or opinion number:  (4) Result: Direct Appeal denied  (5) Date of result: Approximately, October	(2) Date of Gillian 09/30/2010	whheate
(5) Date of result: Approximately Oct.		
(5) Date of result: Approximately Oct.	(4) B	
	(4) Result: Direct Appeal denied	
(6) Issues raised:	(5) Date of result: Approximately 0-1.1	
	(6) Issues raised:	

	242 (12/11) Petition for a Writ of Habeas Corpus Under 23 U.S.C. § 2241
	(b) If you answered "No," explain why you did not appeal:
3.	Second appeal
	After the first appeal, did you file a second appeal to a higher authority, agency, or court?
	(a) If "Yes," provide:
	(1) Name of the authority, agency, or court:
	(2) Date of filing:
	<ul><li>(3) Docket number, case number, or opinion number:</li><li>(4) Result:</li></ul>
	(5) Date of results
	(6) Issues raised:
	(6) Issues raised:
	(b) If you answered "No," explain why you did not 51
	(6) Issues raised:  (b) If you answered "No," explain why you did not file a second appeal:  No attorney, and did runderstand how to do it on my own.
-	(b) If you answered "No," explain why you did not file a second appeal:  Understand how to do it on my own.  Third appeal
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- - - -	(b) If you answered "No," explain why you did not file a second appeal:  No attorney, and did not file a second appeal:  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.  No attorney, and did not file a second appeal.
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- - - -	(b) If you answered "No," explain why you did not file a second appeal:  No attorney, and did not file a second appeal:  No at
- - - -	(b) If you answered "No," explain why you did not file a second appeal:  No attorney, and did not file a second appeal:  No attorney, and did not file a second appeal in the second appeal in the second appeal, did you file a third appeal to a higher authority, agency, or court?  XXNo  a) If "Yes," provide:  (1) Name of the authority, agency, or court:
- - - -	(b) If you answered "No," explain why you did not file a second appeal:  No attorney, and did a understand how to do it on my own.  Third appeal  After the second appeal, did you file a third appeal to a higher authority, agency, or court?  XXNo  a) If "Yes," provide:  (1) Name of the authority, agency, or court:  (2) Date of filing:  (3) Docket number, case number, or oninion purely.
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(b)	If you answered "No," explain why you did not fil	lo a th' t
ri	Ights or how to pursue any other app	peal after I lost my and know my lega
		atter 1 lost my attorney.
IVI O	tion under 28 U.S.C. § 2255	
In t	his petition, are you challenging the validity of your	Conviction
		conviction or sentence as imposed?
If"	Yes," answer the following:	* .
(a)	Have you already filed a motion under 28 U.S.	2 8 22 5 5 1
	☐ Yes ☐ No	C. § 2255 that challenged this conviction or sentence?
	If "Yes," provide:	
	(1) Name of court:	
	(2) Case number:	
	(3) Date of filing:	
	(4) Result:	
	(5) Date of result:	
	(6) Issues raised:	
(b)	Have you ever filed a motion in a United States Co seeking permission to file a second or successive S	ourt of Appeal
	seeking permission to file a second or successive S	ourt of Appeals under 28 U.S.C. § 2244(b)(3)(A), lection 2255 motion to challenge this conviction or
i		challenge this conviction or
	☐ Yes XXI No	· e
	If "Yes," provide:	•
	(1) Name of court:	
	(2) Case number:	
	(3) Date of filing:	
	4) Result:	
	5) Date of result:	
(6	6) Issues raised:	

(c)	Explain with 4
(0)	Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: I am "Time Barred" from filing under §2255.
Appea	ls of immigration proceedings
Does th	nis case concern immigration proceedings?
☐ Yes	XX No
•	If "Yes," provide:
(a)	Date you were taken into immigration custody:
(0)	Date of the removal or reinstatement order.
(c)	Did you file an appeal with the Board of Immigration Appeals?
Į.	☐ Yes ☐ No
	If "Yes," provide:
	(1) Date of filing:
	(2) Case number:
	(3) Result:
	4) Date of result:
	5) Issues raised:
	,
-	
d) Di	dvan
	d you appeal the decision to the United States Court of Appeals?
	U No
	"Yes," provide:
	Name of court:  Date of filing:
	D-4- C CU

	(4) Result:
	(5) Date of result:
8	(6) Issues raised:
•	
	appeals
Other th	han the appeals you listed above, have you filed any other petition, application, or motion about the i
□Yes	XXNo
	"provide:
(a) Kind	d of petition, motion, or application:
(b) Nan	ne of the authority, agency, or court:
	of filing:
(d) Doc	ket number, case number, or opinion number:
(e) Resu	ilt:
(f) Date	of result:
(g) Issue	s raised;
A Provident Compression of the American	
	Grounds for Your Challenge in This Petition
State every	ground (reason) that supports are the
laws, or tre	aties of the United States. Attach additional pages if you have being held in violation of the Constitution,
facts suppo	aties of the United States. Attach additional pages if you have more than four grounds. State the rting each ground.
ROUND O	NE:
	tion under 18 U.S.C. § 924(c) is constitutionally illegal and must be

(a) Supporting	facts (Be brief. Do not cite c	uses or law 1:			
I was convic	ted under on 411-				
	ted under an ille under United Stat	,	DOOL 2319	: /U4   FA 7A 7E	7 /0010
conviction f	or §924(c) is kee	ping me in p	rison, but is n	ot a crime of vi	olence.
	the state of the s				
(b) Did you pres	Sent Ground One in all				
X Yes	sent Ground One in all ap	peals that were av	ailable to you?		
	U 1/10				
CRAUND TWO.	Tmass				
GROUND I WO;	Ineffective Assi	stance of Co	unsel/Deficient	Performance	
	·	,			
		·			
(a) Supporting fa	cts (Be brief. Do not cite case	es or law.):			
My lawyer di	dn't follow throu	,			
1 6	en e tottow curou	gn with my ap	opeal, instead	chose to withdra-	1 • •
				enobe to withdrat	v which
Diligence" a	s required as my	appeilate p	orocess. She fat	iled to perform 1	ner "Du
Diligence" a take my appe	s required as my a al all the way th	appointed att	corney. This der	iled to perform l	ner "Du
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Diligence" a take my appe	s required as my	appointed att	corney. This der	iled to perform l	<u>ner "D</u> u
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Diligence" a take my apper release much  (b) Did you presen	s required as my a al all the way the earlier.	appointed att	orocess. She far corney. This der cess, which cor	iled to perform l	ner "Du
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GROUND FO	IIR.		
	DA.,		
•			
(a) Supportin	g facts (Be brief. Do noi cit		
( ) - »pportin	s racis (be oriej. Do not cit	e cases or law.);	
T			
(b) Did you pr	scent Crown J.F.		
☐ Yes	sent Ground Four in all	appeals that were available to y	ou?
L) Yes	□ No		
If there are any			
If there are any	grounds that you did not	t present in all appeals that were	available to you, explain why you di
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AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

## Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

February 13, 2024

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis

12/02/24

Signature of Petitioner

Signature of Attorney or other authorized person, if any